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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,164	04/22/2004	Erol Girt	146712004900	5750

7590 09/11/2007
EROL GIRT
2704 COLLEGE AVENUE, APT 4
BERKELEY, CA 94705

EXAMINER

RICKMAN, HOLLY C

ART UNIT	PAPER NUMBER
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1773

MAIL DATE	DELIVERY MODE
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09/11/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/829,164	Applicant(s) GIRT ET AL.	
	Examiner Holly Rickman	Art Unit 1773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12,15-20 and 23-33 is/are pending in the application.
- 4a) Of the above claim(s) 23-33 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12,15-20 is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. <u>20070906</u> |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 23-33 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: newly added independent claim 23 (and all claims depending therefrom) is distinct from the originally claimed invention because it does not require any particular order for the layers. The claim does not require the structure set forth in originally presented claim 12 wherein the interlayer is located above the non-magnetic layer. Thus, it is patentably distinct from the originally presented claims. Newly presented claim 29 is directed to a structure which does not include a non-magnetic layer with bcc <200> PO as required by originally presented claim 12. Thus, this claim (and claims depending therefrom) is patentably distinct from the originally presented claims.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 23-33 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

2. This application is in condition for allowance except for the presence of claims 23-33 directed to an invention non-elected by original presentation. Applicant is given **ONE MONTH or THIRTY DAYS** from the date of this letter, whichever is longer, to cancel the noted claims or take other appropriate action (37 CFR 1.144). Failure to take action during this period will be treated as authorization to cancel the noted claims by Examiner's Amendment and pass the case

to issue. Extensions of time under 37 CFR 1.136(a) will not be permitted since this application will be passed to issue.

The prosecution of this case is closed except for consideration of the above matter.

Claim Rejections - 35 USC § 102

3. The rejection of claims 12-13, 16-17, and 19 under 35 U.S.C. 102(e) as being anticipated by Oikawa et al. (US 2003/0087131) is withdrawn in view of Applicant's amendments.

4. The rejection of claims 18 and 20 under 35 U.S.C. 103(a) as being unpatentable over Oikawa et al. (US 2003/0087131) in view of Bian et al. (US 6858331) is withdrawn in view of Applicant's amendments.

Allowable Subject Matter

5. Claims 12 and 15-20 are allowable over the closest prior art to Oikawa et al. Oikawa et al. fails to teach or suggest the claimed multi-layered interlayer structure having the claimed layers in the claimed order wherein the second interlayer is formed from a Ru-Y alloy material. The prior art fails to teach or suggest a motivation to modify the structure of Oikawa et al. to include such a layer.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Holly Rickman whose telephone number is (571) 272-1514. The examiner can normally be reached on Monday-Friday 9:30-6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on (571) 272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Holly Rickman
Primary Examiner
Art Unit 1773

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September 6, 2007